

## Internal Revenue Service, Treasury

## § 301.7605-1

credit cards or similar devices) with respect to—

(i) Records relating to non-credit card transactions, such as a cash sale by the issuer to a holder of the issuer's credit card; or

(ii) Records relating to transactions involving the use of another issuer's credit card.

(2) *Examples.* The rules of paragraph (b)(1) of this section are illustrated by the following examples:

*Example 1.* V issues a credit card (the V card) that is honored by R, a retailer. When using the V card, C, a customer, signs a sales slip in triplicate. C, R, and V each retain one copy. Only the copy held by V is held by a third-party recordkeeper under section 7603(b)(2), even though R may issue its own credit card.

*Example 2.* R, a retailer, issues its own credit card (the R card) to C, a customer. When C makes a credit purchase from R using the R card, C signs a sales slip in duplicate. C and R each retain one copy. Because R keeps the copy in its capacity as credit card issuer, as well as in its capacity as a retailer, it is a third-party recordkeeper under section 7603(b)(2) with respect to its copy of the sales slip.

(c) *Effective/applicability date.* This section is applicable on April 30, 2008.

[T.D. 9395, 73 FR 23345, Apr. 30, 2008]

### § 301.7604-1 Enforcement of summons.

(a) *In general.* Whenever any person summoned under section 6420(e)(2), 6421(f)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, application may be made to the judge of the district court or to a U.S. commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt.

(b) *Persons who may apply for an attachment.* The officers and employees of the Internal Revenue Service whom the Commissioner has designated to carry out the authority given him by § 301.7602-1(b) to issue a summons are authorized to apply for an attachment as provided in paragraph (a) of this section.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7297, 38 FR 34803, Dec. 19, 1973]

### § 301.7605-1 Time and place of examination.

(a) *Time and place of examination to be reasonable—(1) In general.* The time and place of examination pursuant to the provisions of sections 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 of the Internal Revenue Code are to be fixed by an officer or employee of the Internal Revenue Service, and officers and employees are to endeavor to schedule a time and place that are reasonable under the circumstances. This section sets forth general criteria for the Service to apply in determining whether a particular time and place for an examination are reasonable under the circumstances. Officers and employees should exercise sound judgment in applying these criteria to the circumstances at hand and should balance convenience of the taxpayer with the requirements of sound and efficient tax administration.

(2) *International examinations.* Except for the provisions of paragraph (b)(2) of this section, this section does not apply to examinations that fall under the jurisdiction of the Office of the Assistant Commissioner (International).

(3) *Criminal investigations.* Except for the provisions of paragraph (b)(2) of this section, this section does not apply to criminal investigations.

(b) *Time of examination—(1) Date and time of examination.* It is reasonable for the Service to schedule the day (or days) for an examination during a normally scheduled workday (or workdays) of the Service, during the Service's normal business hours. It is reasonable for the Service to schedule examinations throughout the year, without regard to seasonal fluctuations in the businesses of particular taxpayers or their representatives. However, the Service will work with taxpayers or their representatives to try to minimize any adverse effects in scheduling the date and time of an examination.

(2) *Date of appearance when summons is used.* If a summons is issued under authority of section 7602(a)(2) of the Internal Revenue Code, or under the corresponding authority of sections 6420(e)(2), 6421(g)(2), or 6427(j)(2), the date fixed for appearance before an officer or employee of the Service must

be no less than 10 days from the date of the summons.

(c) *Type of examination*—(1) *In general.* The Service will determine whether an examination will be an office examination (i.e., an examination conducted at a Service office) or a field examination (i.e., an examination conducted at the taxpayer's residence or place of business, or some other location that is not a Service office), based upon the complexity of the return and which form of examination will be more conducive to effective and efficient tax administration.

(2) *Office examination held in location other than Service office in case of clear need.* The Service will grant a request to hold an office examination at a location other than a Service office in a case of clear need, such as when it would be unreasonably difficult for the taxpayer to travel to a Service office because of the taxpayer's advanced age or infirm physical condition, or when the taxpayer's books, records, and source documents are too cumbersome for the taxpayer to bring to a Service office.

(d) *Place of examination*—(1) *In general.* The Service generally will make an initial determination of the place for an examination, including the Internal Revenue Service district to which an examination will be assigned, based upon the address shown on the return for the period selected for examination. Requests by taxpayers to transfer the place of examination will be resolved on a case-by-case basis, using the criteria set forth in paragraph (e) of this section.

(2) *Office examinations*—(i) *In general.* An office examination of an individual or sole proprietorship generally is based on the residence of the individual taxpayer. An office examination of a taxpayer that is an entity generally is based on the location where the taxpayer entity's original books, records, and source documents are maintained. An office examination generally will take place at the closest Service office within the district encompassing the taxpayer's residence or at the closest Service office within the district where the taxpayer entity's books, records, and source documents are maintained. It generally is not reasonable for the

Service to require a taxpayer to attend an examination at an office within an assigned district other than the closest Service office.

(ii) *Exception.* If the office within the assigned district closest to an individual taxpayer's residence or the location where a taxpayer entity's books, records and source documents are maintained does not have an examination group or the appropriate personnel to conduct the examination, it generally is reasonable for the Service to require the taxpayer to attend an examination at the closest Service office within the assigned district that has an examination group or the appropriate personnel.

(iii) *Travel considerations.* In scheduling office examinations, the Service in appropriate circumstances will take into account the distance a taxpayer would have to travel.

(3) *Field examinations*—(i) *In general.* A field examination will generally take place at the location where the taxpayer's original books, records, and source documents are maintained. In the case of a sole proprietorship or taxpayer entity, this will usually be the taxpayer's principal place of business.

(ii) *Exception for certain small businesses.* If an examination is scheduled by the Service at the taxpayer's place of business and the taxpayer represents to the Service in writing that conducting the examination at the place of business would essentially require the business to close or would unduly disrupt business operations, the Service, upon verification, will change the place of examination to a Service office within the district where the taxpayer's books, records, and source documents are maintained.

(iii) *Site visitations.* Regardless of where an examination takes place, the Service may visit the taxpayer's place of business or residence to establish facts that can only be established by direct visit, such as inventory or asset verification. The Service generally will visit for these purposes on a normal workday of the Service during the Service's normal duty hours.

(e) *Requests by taxpayers to change place of examination*—(1) *In general.* The Service will consider, on a case-by-case

basis, written requests by taxpayers or their representatives to change the place that the Service has set for an examination. In considering these requests, the Service will take into account the following factors—

- (i) The location of the taxpayer's current residence;
- (ii) The location of the taxpayer's current principal place of business;
- (iii) The location at which the taxpayer's books, records, and source documents are maintained;
- (iv) The location at which the Service can perform the examination most efficiently;
- (v) The Service resources available at the location to which the taxpayer has requested a transfer; and
- (vi) Other factors that indicate that conducting the examination at a particular location could pose undue inconvenience to the taxpayer.

(2) *Circumstances in which the Service normally will permit transfers.* A request by a taxpayer to transfer the place of examination will generally be granted under the following circumstances:

(i) *Office examination*—(A) If the current residence of the taxpayer, in the case of an individual or sole proprietorship, or the location where the taxpayer's books, records, and source documents are maintained, in the case of a taxpayer entity, is closer to a different Service office in the same district as the office where the examination has been scheduled, the Service normally will agree to transfer the examination to the closer Service office.

(B) If the current residence of a taxpayer, in the case of an individual or sole proprietorship, or the location where a taxpayer entity's books, records, and source documents are maintained, is in a district other than the district where the examination has been scheduled, the Service normally will agree to transfer the examination to the closest Service office in the other district.

(ii) *Field examinations*—(A) If a taxpayer does not reside at the residence where an examination has been scheduled, the Service will agree to transfer the examination to the taxpayer's current residence.

(B) If, in the case of an individual, a sole proprietorship, or a taxpayer enti-

ty, the taxpayer's books, records, and source documents are maintained at a location other than the location where the examination has been scheduled, the Service will agree to transfer the examination to the location where the taxpayer's books, records, and source documents are maintained.

(3) *Transfer for convenience of taxpayer's representative.* The location of the place of business of a taxpayer's representative will generally not be considered in determining the place for an examination. However, the Service in its sole discretion may determine, based on the factors described in paragraph (e)(1) of this section, to transfer the place of examination to the representative's office.

(4) *Transfer within thirteen months of expiration of limitations period.* If any applicable period of limitations on assessment or collection provided in the Internal Revenue Code will expire within thirteen months from the date of a taxpayer's request to transfer the place of an examination, the Service may require, as a condition for an otherwise permissible transfer, that the taxpayer first agree in writing to extend the limitations period for up to one year.

(5) *Transfer to office with insufficient resources.* The Service is not required to transfer an examination to an office or district that does not have adequate resources to conduct the examination.

(f) *Safety of Service officers and employees.* Notwithstanding any other provision of this regulation, officers and employees of the Service may decline to conduct an examination at a particular location if it appears that the possibility of physical danger may exist at that location. In these circumstances, the Service may transfer an examination to a Service office and take any other steps necessary to protect its officers and employees.

(g) *Transfers initiated by Service.* Nothing in this section shall be interpreted as precluding the Service from initiating the transfer of an examination if the transfer would promote the effective and efficient conduct of the examination. Should a taxpayer request that such a transfer not be made, the Service will consider the request according to the principles and criteria

set forth in paragraph (e) of this section.

(h) *Restrictions on examination of taxpayer.* No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless an authorized internal revenue officer, after investigation, notifies the taxpayer in writing that an additional inspection is necessary. The inspection of a taxpayer's books of account pursuant to the procedures of § 1.1441-4(b) (3) and (4) is not an inspection of a taxpayer's books of account for purposes of section 7605(b) and this section.

(i) *Restriction on examination of churches—(1) In general.* This section imposes certain restrictions upon the examination of the books of account and religious activities of a church or convention or association of churches for the purpose of determining whether such organization may be engaged in activities the income from which is subject to tax under section 511 as unrelated business taxable income. The purposes of these restrictions are to protect such organizations from undue interference in their internal financial affairs through unnecessary examinations to determine the existence of unrelated business taxable income, and to limit the scope of examination for this purpose to matters directly relevant to a determination of the existence or amount of such income. This section also imposes additional restrictions upon other examinations of such organizations.

(2) *Books of account.* No examination of the books of account of an organization which claims to be a church or a convention or association of churches shall be made except after the giving of notice as provided in this subparagraph and except to the extent necessary (i) to determine the initial or continuing qualification of the organization under section 501(c)(3); (ii) to determine whether the organization qualifies as one, contributions to which are deductible under section 170, 545, 556, 642, 2055, 2106, or 2522; (iii) to obtain information for the purpose of ascertaining or verifying payments made by the organization to another person in deter-

mining the tax liability of the recipient, such as payments of salaries, wages, or other forms of compensation; or (iv) to determine the amount of tax, if any, imposed by the Code upon such organization. No examination of the books of account of a church or convention or association of churches shall be made unless the Regional Commissioner believes that such examination is necessary and so notifies the organization in writing at least 30 days in advance of examination. The Regional Commissioner will conclude that such examination is necessary only after reasonable attempts have been made to obtain information from the books of account by written request and the Regional Commissioner has determined that the information cannot be fully or satisfactorily obtained in that manner. In any examination of a church or convention or association of churches for the purpose of determining unrelated business income tax liability pursuant to such notice, no examination of the books of account of the organization shall be made except to the extent necessary to determine such liability.

(3) *Religious activities.* No examination of the religious activities of an organization which claims to be a church or convention or association of churches shall be made except (i) to the extent necessary to determine the initial or continuing qualification of the organization under section 501(c)(3); (ii) to determine whether the organization qualifies as one, contributions to which are deductible under section 170, 545, 556, 642, 2055, 2106, or 2522; or (iii) to determine whether the organization is a church or convention or association of churches subject to the provisions of part III of subchapter F of chapter 1. The requirements of subparagraph (2) of this paragraph that the Regional Commissioner give notice prior to examination of the books of account of an organization do not apply to an examination of the religious activities of the organization for any purpose described in this subparagraph. Once it has been determined that the organization is a church or convention or association of churches, no further examination of its religious activities may

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be made in connection with determining its liability, if any, for unrelated business income tax.

(4) *Effective date.* The provisions of this paragraph shall apply to audits and examinations of taxable years beginning after December 31, 1969.

(j) *Effective date.* Paragraphs (a) through (g) of this section, inclusive, are effective for examinations scheduled after April 2, 1993.

(Secs. 1441(c)(4) (80 Stat. 1553; 26 U.S.C. 1441(c)(4)), 3401(a)(6) (80 Stat. 1554; 26 U.S.C. 3401(a)(6)), and 7805 (68A Stat. 917; 26 U.S.C. 7805), Internal Revenue Code of 1954)

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7146, 36 FR 20599, Oct. 27, 1971; T.D. 7977, 49 FR 36836, Sept. 20, 1984; T.D. 8297, 55 FR 12346, Apr. 3, 1990; T.D. 8469, 58 FR 17519, Apr. 5, 1993]

### § 301.7606-1 Entry of premises for examination of taxable objects.

Any officer or employee of the Internal Revenue Service may, in the performance of his duty, enter in the daytime any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects and also enter at night any such building or place, while open, for a similar purpose.

[T.D. 7297, 38 FR 34804, Dec. 19, 1973]

### § 301.7609-1 Special procedures for third-party summonses.

(a) *In general*—(1) Section 7609 requires the Internal Revenue Service (IRS) to follow special procedures when summoning a third party's testimony, records, or computer software source code. Except as provided in § 301.7609-2(b), the IRS must provide notice of a third-party summons to any person identified in the summons, other than the person summoned. A person entitled to notice of a third-party summons may intervene in any proceeding brought to enforce the summons or may bring a proceeding to quash the summons, regardless of whether they receive notice of the summons from the IRS pursuant to section 7609(a) and § 301.7609-2.

(2) Neither section 7609 nor the regulations hereunder limit the IRS's ability to obtain information, other than

by summons, through formal or informal procedures authorized by sections 7601 and 7602.

(b) *Cross references.* See § 301.7609-2 for rules relating to persons who must be notified of a third-party summons and exceptions to the notification requirements. See § 301.7609-3 for rules relating to the rights and duties of summoned parties. See § 301.7609-4 for rules relating to actions to quash a summons or to intervene in a summons enforcement proceeding. See § 301.7609-5 for rules relating to the suspension of periods of limitations.

(c) *Records.* For purposes of §§ 301.7609-1 through 301.7609-5, the term *records* includes books, papers, or other data.

(d) *Effective/applicability date.* This section is applicable on April 30, 2008.

[T.D. 9395, 73 FR 23345, Apr. 30, 2008]

### § 301.7609-2 Notification of persons identified in third-party summonses.

(a) *In general*—(1) *Persons entitled to notice.* Except as provided in § 301.7609-2(b), the Internal Revenue Service (IRS) shall give notice of a third-party summons to any person, other than the person summoned, who is identified in the summons. The only persons so identified are the person with respect to whose liability the summons is issued and any other person identified in the description of summoned records or testimony. For example, if the IRS issues a summons to a bank with respect to the liability of C that requires the production of account records of A and B, both of whom are named in the summons, the IRS must notify A, B and C of the summons.

(2) *Time for providing notice.* If notice is required by this paragraph, such notice must be given within three days of the date on which the summons is served on the third party, but no later than 23 days prior to the date fixed in the summons as the date on which the examination of the summoned person or records is scheduled.

(3) *Methods for serving notice.* Notice may be served by hand delivery to any person entitled to notice or by leaving notice at such person's last and usual place of abode. Notice also may be served by certified or registered mail